

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

MICHAEL NEWBURY,)
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Plaintiff,)
)
)
vs.) Case No. CIV-05-876-F
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RON WARD, et al.,)
)
)
Defendants.)

ORDER

On May 16, 2006, United States Magistrate Judge Doyle W. Argo entered a Report and Recommendation, wherein he recommended that defendants' motion for summary judgment be granted with regard to plaintiff's claims under the Fifth Amendment, Eighth Amendment, and the Fourteenth Amendment due process clause. Magistrate Judge Argo further recommended that plaintiff's claims under the Equal Protection Clause be dismissed pursuant to 28 U.S.C. § 1915A(b)(1) and that the court decline to exercise supplemental jurisdiction over plaintiff's claims under the Oklahoma Constitution.

Presently before the court is plaintiff's timely objection to the Report and Recommendation. Having conducted a *de novo* review of the matter in accordance with 28 U.S.C. § 636(b)(1), the court concurs with Magistrate Judge Argo's analysis. The court finds plaintiff's objection to be without merit. The court therefore accepts, adopts, and affirms the Report and Recommendation in its entirety.

IT IS THEREFORE ORDERED that the Report and Recommendation issued by United States Magistrate Judge Doyle W. Argo on May 16, 2006 (doc. no. 17), is **ACCEPTED, ADOPTED, and AFFIRMED.**

IT IS ALSO ORDERED that defendants' Motion for Summary Judgment (doc. no. 12) is **GRANTED** with regard to plaintiff's claims under the Fifth Amendment, the Eighth Amendment, and the Fourteenth Amendment due process clause.

IT IS ALSO ORDERED that plaintiff's claims under the Fourteenth Amendment equal protection clause are **DISMISSED** pursuant to 28 U.S.C. § 1915A(b)(1).

IT IS ALSO ORDERED that the court declines to exercise supplemental jurisdiction over plaintiff's claims under the Oklahoma Constitution and those claims are **DISMISSED WITHOUT PREJUDICE** pursuant to 28 U.S.C. § 1367(c)(3).

IT IS FURTHER ORDERED that in light of the court's rulings, defendants' Motion to Dismiss (doc. no. 12) is **DECLARED MOOT**.

ENTERED this 6th day of June, 2006.



STEPHEN P. FRIOT
UNITED STATES DISTRICT JUDGE

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